

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Amendment of Part 90 )  
of the Commission's )  
Rules to Permit the )  
Licensing of Mobile )  
Operations on the )  
Frequencies 154.570 MHz )  
and 154.600 MHz without )  
Prior Frequency )  
Coordination )

RM-8623

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To: The Commission

REPLY STATEMENT  
OF THE  
COUNCIL OF INDEPENDENT COMMUNICATION SUPPLIERS

The Council of Independent Communication Suppliers ("CICS"), pursuant to Section 1.405(b) of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), hereby respectfully submits this Reply Statement to the Comments filed in the above-referenced proceeding by the Personal Communications Industry Associations ("PCIA").<sup>1</sup>

1. On February 10, 1995, CICS filed a Petition for Rule Making with the Commission seeking to permit the routine licensing of mobile operations on the frequencies 154.570 MHz and 154.600 MHz without prior frequency coordination. These frequencies are

<sup>1</sup> PCIA filed its comments with the Commission on April 28, 1995. However, PCIA did not serve CICS with a copy. CICS learned of PCIA's comments on May 11, 1995 when PCIA telecopied a copy at the request of CICS. CICS is filing this Reply at the earliest possible opportunity.

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available to entities eligible in the Business Radio Service and, on a secondary basis, to entities eligible in the Forest Products Radio Service. Under Sections 90.75(c)(4), operations on these frequencies are limited to a maximum output power of 2 watts and each station is classified and licensed as a mobile station.

2. PCIA has opposed CICS's Petition on the grounds that it is premature and deficient on the merits. On the first point, PCIA argues that it would be counterproductive for the Commission to address the coordination of the frequencies 154.570 MHz and 154.600 MHz in advance of a decision in the private land mobile spectrum refarming proceeding, PR Docket No. 92-235. With respect to the second point, PCIA asserts that prior coordination of radio systems licensed on 154.570 MHz and 154.600 MHz is essential to interference-free operations. Notwithstanding PCIA's arguments, CICS continues to find little benefit to be gained by prior frequency coordination for systems employing 154.570 MHz and 154.600 MHz.

3. In its Comments, PCIA makes the following arguments:

- The new channelization under consideration in the refarming proceeding will affect the frequencies 154.570 MHz and 154.600 MHz, and it is premature for the FCC to address the Petition for Rule Making before that proceeding is completed.
- The use of the frequencies 154.570 MHz and 154.600 MHz is so varied and extensive that frequency coordination is necessary to prevent inter-system interference.
- Elimination of prior frequency coordination would undermine quality control and increase the number of defective applications, thereby lengthening

licensing delays and wasting FCC resources.

- Frequency coordination is beneficial to users because it allows them to begin operation immediately after coordination and provides a "first-stop" mechanism for the resolution of disputes.

4. CICS has considered, in detail, the concerns expressed by PCIA. For the reasons set forth below, CICS believes that PCIA's concerns, to the extent relevant at all, are exaggerated.

#### Impact of the Refarming Proceeding

5. CICS disagrees with PCIA's argument that the matters raised in CICS's Petition for Rule Making are intertwined with the refarming proceeding. Using the same logic, one could claim that almost any issue raised regarding private land mobile operations between 35 MHz and 512 MHz falls within the scope of the refarming proceeding. Clearly, there is a vast difference in both scope and focus between the refarming proceeding and CICS's Petition.

6. For all intents and purposes, the refarming proceeding is focused on changes that would take place in the year 2000 and beyond. The benefits of refarming may not be realized for another 15 years. In distinct contrast, CICS's Petition seeks to relieve applicants of an unnecessary burden in the short term. The benefits of the action proposed by CICS would be both tangible and immediate.

7. The refarming proceeding looks to make dramatic changes that will fundamentally alter the existing private land mobile frequency allocations. Refarming affects more than 1,100 discrete frequencies. Again by way of contrast, CICS's petition looks to correct a minor facet of the Commission's overall frequency management program. It affects only two frequencies.

8. CICS's Petition is not premature. It addresses a current situation that could easily be corrected. The coordination requirements for 154.570 MHz and 154.600 MHz deserve to be examined in the context of a proceeding that is confined in scope and independent of all the complex technical and policy considerations inherent in PR Docket No. 92-235.

#### Interference Prevention

9. PCIA asserts that frequency coordination plays a meaningful role in preventing interference between systems operating on the frequencies 154.570 MHz and 154.600 MHz. In CICS's view, however, the benefits of frequency coordination are overstated. On the one hand, the effectiveness of frequency coordination is severely limited when radio users are free to move their systems from one area to another. On the other hand, the potential for interference on frequencies limited to two watts is relatively minor in any event. Though PCIA maintains that two watts in the 150 MHz band can actually travel a significant

distance, many systems cover no more than a couple of city blocks.

10. Moreover, the collective experiences of the many radio dealers included in CICS's membership suggest that there is a substantial degree of unlicensed operation on 154.570 MHz and 154.600 MHz. It makes little sense to assert that frequency coordination ensures quality control when, in fact, many radio users evade the coordination and licensing requirement altogether. The coordination process works effectively when there is an accurate database of existing users. In the case of 154.570 MHz and 154.600 MHz, however, the level of unlicensed activity renders any coordination data base suspect.

Adverse Effect on Quality Control,  
Temporary Use and Dispute Resolution

11. PCIA argues that CICS's Petition for Rule Making would deprive users of other benefits inherent in the frequency coordination process, namely, error correction, the privilege of immediate operation and "first-stop" dispute resolution. With respect to the first point, error correction, CICS questions the value of spending coordination resources on error correction for frequencies that are subject to a considerable amount of unlicensed activity in any event.

12. Regarding the second point, the privilege of immediate operation, CICS believes that the benefit to the user is illusory.

If the frequency coordination requirement is eliminated, there will be a significant time savings at the beginning of the licensing process. Instead of having to file requests for coordination with PCIA or the Forest Industries Telecommunications, applicants would be able to submit their applications directly to the Commission. The time required before a user can begin operating is likely to be relatively constant, whether or not there is a frequency coordination requirement.

13. Finally, with respect to a coordinator's responsibility for dispute resolution, it must be recognized that frequency coordinators may advise licensees concerning potential solutions to disputes but they have no authority to compel licensees to resolve their disputes. That responsibility rests with the Commission alone. Even without frequency coordination, the Commission will remain as the ultimate authority over the resolution of disputes.


#### Conclusion

14. CICS believes that PCIA's Comments ignore the practical reality surrounding the frequencies 154.570 MHz and 154.600 MHz. Due to the low-power nature of these frequencies, there is little potential for inter-system interference. In any event, the frequency coordination system is ill-equipped to prevent interference because of the mobile nature of the operations common to the frequencies and the high degree of unlicensed use. Under

all of the circumstances, there is no demonstrable purpose to be served by frequency coordination. For the reasons set forth in its Petition for Rule Making, therefore, CICS urges the Commission to proceed to a Notice of Proposed Rule Making in this matter.

**WHEREFORE, THE PREMISES CONSIDERED,** the Council of Independent Communication Suppliers respectfully submits this Reply to the Comments of the Personal Communications Industry Association and urges the Federal Communications Commission to act in accordance with the views expressed herein.

**COUNCIL OF INDEPENDENT  
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Date: May 19, 1995



**CERTIFICATE OF SERVICE**

I, Melissa A. Jackson, do hereby certify that on the 19th day of May 1995, I forwarded to the parties listed below a copy of the foregoing Reply Statement of the Council of Independent Communication Suppliers, by first-class mail, postage pre-paid:

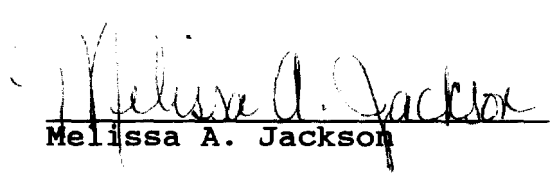
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